

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

LUCAS HORTON,

Plaintiff,

v.

**NORTHCOAST WARRANTY
SERVICES, INC.**

Defendant.

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CASE NO. _____

DEFENDANT NORTHCOAST WARRANTY SERVICES, INC.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446, Defendant, Northcoast Warranty Services, Inc., by and through its undersigned counsel, hereby removes the above-captioned action, by the filing of this Notice of Removal with the Clerk of the Small Claims Court of Dallas County, Texas. As grounds for removal, Defendant states as follows:

1. On or about November 10, 2020, Plaintiff Lucas Horton ("Plaintiff") filed an action in the Small Claims Court of Dallas County, Texas entitled *Lucas Horton v. Northcoast Warranty Services, Inc.* under Case No. JS20-00324D (the "State Court Action").

2. On or about November 12, 2020, Defendant was served with the citation and complaint. A true and correct copy of Plaintiff's Complaint is attached hereto as Exhibit 1. The accompanying citation is attached hereto as Exhibit 2.

3. Pursuant to Local Rule 81.1 a screen shot copy of the State Court's Docket Sheet is attached hereto as Exhibit 3.

4. Pursuant to 28 U.S.C. § 1446(a), a complete copy of all process and pleadings served on Defendant in the State Court Action can be found in Exhibits 1 and 2.

5. Pursuant to 28 U.S.C. § 1446(b) and Fed. R. Civ. Proc., Rule 6, this Notice of Removal is timely because it has been filed within 30 days of Defendant's receipt of the citation and complaint.

6. This Court is the district and division "embracing the place where [the State Court] action is pending." 28 U.S.C. § 1441(a).

7. This action is removable to this Court under 28 U.S.C. § 1441(a), because it is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1331.

8. Specifically, Plaintiff's Complaint alleges violations of a federal law and requires the construction of federal law, thereby triggering federal question jurisdiction. Specifically, Plaintiff's Complaint asserts that Defendant violated the Telephone Consumer Protection Act, 47 U.S.C. § 227. See Exhibit 1, Compl. ¶ 8. Further, this Court has jurisdiction under 28 U.S.C. § 1367 of Plaintiff's claims of violation of Texas Business and Commerce Code § 305.053. There must be a violation of the federal Telephone Consumer Protection Act to state a claim under Section 305.053. See TEX. BUS. COM. CODE § 305.053 ("[a] person who receives a communication that violates 47 U.S.C. § 227, a regulation adopted under that provision, or Subchapter A may bring an action in this state against the person who originates the communication..."). The TCPA provides a private right of action for violations and statutory damages in the amount of \$500 for each separate violation and up to \$1,500 for each willful violation. See 47 U.S.C. 227 § (b)(3), (f)(1). Thus, this case is a civil action over which this Court has original federal question jurisdiction pursuant to 28 U.S.C. § 1331 and supplemental and/or pendent jurisdiction under 28 U.S.C. § 1367.

9. As a result, this Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331, because Plaintiff's Complaint is founded on claims or rights arising under the laws of the United States, and removal is appropriate under 28 U.S.C. § 1441.

10. By filing this Notice of Removal, Defendant does not waive any defenses that it may have to Plaintiff's claims.

Respectfully submitted,

By: /s/ Jason Wagner

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**ATTORNEY FOR DEFENDANT
NORTHCOAST WARRANTY
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**ATTORNEY FOR DEFENDANT
NORTHCOAST WARRANTY SERVICES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Defendant Northcoast Warranty Services, Inc.'s Notice of Removal** was served, pursuant to Federal Rule of Civil Procedure 5, via United States certified mail, return receipt requested, and email, on this the 11th day of December 2020, to:

Lucas Horton
1202 Stratford Drive
Richardson, Texas 75080
(214) 909-3341
(*Pro Se Plaintiff*)

/s/ Jason Wagner
Jason Wagner